



Community Development Department

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PLANNING COMMISSION STAFF REPORT MUNICIPAL CODE AMENDMENT ALLOW ORIGINAL ART MURALS ON PUBLIC BUILDINGS IN RESIDENTIAL ZONES

HEARING DATE: June 13, 2019

FILE NO: DCA19-0007

APPLICANT: Initiated by City Council Resolution No. 2019-3554

REQUEST: Amend the Newberg Municipal Code to allow original art murals on public buildings in residential zones.

ATTACHMENTS:

Resolution 2019-05 with:

Exhibit "A": Proposed Municipal Code Text Amendment

Exhibit "B": Findings

1. Newberg City Council Resolution No. 2019-3554 initiating text amendments

A. SUMMARY: The proposed amendments do the following:

Amend Newberg Municipal Code sections 15.435.130.B.1.f to allow original art murals on public buildings in residential zones.

BACKGROUND:

On March 27, 2019 Library Director Leah Griffith submitted a letter requesting that the City Council initiate an amendment to the Newberg Municipal Code (NMC). The NMC currently allows original art murals only on schools and assembly uses in residential zones. Library Director Leah Griffith is requesting that public buildings be included in the allowed uses for original art murals in order to add a potential mural on the north wall of the Library Annex Building at 211 N Howard Street.

On April 15, 2019 the Community Development Director submitted Resolution 2019-3554 to initiate an amendment to the Newberg Municipal Code addressing regulations related to murals in residential zones. At that same meeting the Newberg City Council initiated an amendment to

the Newberg Municipal Code to allow murals on public buildings in residential zones and adopted Resolution No. 2019-3554.

The Planning Commission held a public hearing on June 13, 2019, took public testimony, and discussed the pros and cons of the proposal.

- B. PROCESS:** A development code amendment is a Type IV application and follows the procedures in Newberg Municipal Code 15.100.060. The Planning Commission will hold a legislative hearing on the application. The Commission will make a recommendation to the Newberg City Council. Following the Planning Commission's recommendation, the Newberg City Council will hold a legislative public hearing to consider the matter. Important dates related to this application are as follows:

1. 4/15/19: The Newberg City Council initiated an amendment to the Newberg Municipal Code.
2. 4/15/19: The Newberg City Council adopted Resolution 2019-3554, initiating the Municipal Code Amendment.
3. 5/23/19: Planning staff placed notice on Newberg's website, and posted notice in four public buildings. *The Newberg Graphic* published notice of the hearing.
4. 6/13/19: The Planning Commission held a public hearing, took public testimony, and deliberated on the proposal.

- C. PUBLIC COMMENTS:** As of the writing of this report, the city has not received any written public comments.

- D. CITY STAFF COMMENTS:** As of the writing of this report, no comments from city staff have been received.

E. ANALYSIS

PRELIMINARY STAFF RECOMMENDATION: The preliminary staff recommendation is made in the absence of public hearing testimony and may be modified subsequent to the close of the public hearing. At this writing, staff recommends the following motion:

Move to adopt Planning Commission Resolution 2019-05, which recommends that the City Council adopt the requested amendments.



PLANNING COMMISSION RESOLUTION 2019-05

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL AMEND THE NEWBERG MUNICIPAL CODE TO ALLOW ORIGINAL ART MURALS ON PUBLIC BUILDINGS IN RESIDENTIAL ZONES

RECITALS

1. On April 15, 2019 the Newberg City Council initiated an amendment to the Newberg Municipal Code to allow original art murals on public buildings in residential zones.
2. On April 15, 2019 the Newberg City Council adopted Resolution 2019-3554, which initiated amendments to the Newberg Municipal Code to allow original art murals on public buildings in residential zones.
3. After proper notice, the Newberg Planning Commission opened the hearing on June 13, 2019, considered public testimony and deliberated. They found that the proposed code amendment was in the best interests of the city.

The Newberg Planning Commission resolves as follows:

1. The Commission recommends that the City Council adopt the amendments to the Newberg Municipal Code as shown in Exhibit "A." Exhibit "A" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.

Adopted by the Newberg Planning Commission this 13th day of June, 2019.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A": Municipal Code Amendments
Exhibit "B": Findings

Exhibit “A” to Planning Commission Resolution 2019-005
Municipal Code Amendments –File DCA19-0007
Allow original art murals on public buildings in residential zones

Note: Existing text is shown in regular font.
Added text is shown in underline
Deleted text is shown in strikethrough.

The Newberg Municipal Code shall be amended as follows:

15.435.130 Original art murals.

B. Allowed and Prohibited Original Art Murals.

1. Allowed Original Art Murals. Original art murals that meet all of the following criteria and which are not prohibited will be allowed upon satisfaction of the applicable permit requirements.

f. Original art murals are allowed in commercial, industrial and institutional zones. In residential zones, original art murals are allowed only on assembly, ~~and~~ school uses and public buildings.

Exhibit “B” to Planning Commission Resolution 2019-005
Findings –File DCA19-0007
Allow original art murals on public buildings in residential zones

APPROVAL CRITERIA

A. Statewide Planning Goals (the “Goals”)

GOAL 1: CITIZEN INVOLVEMENT

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: This application is subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with this Goal. The public hearing notice of the action and decision and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation.

GOAL 2: LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: This Goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan policies and designations.

The proposed land use action has an adequate factual base and has been thoroughly described in this application.

The alternatives to amending the municipal code text would be to: 1) deny the application and continue to allow original art murals only on school and assembly uses in residential zones or 2) the applicant may consider rezoning the site to the C-3 zone, where original art murals are permitted on walls that do not face First Street or Hancock Street.

Implementation measures proposed are consistent with and adequate to carry out comprehensive plan policies and designations as noted in these findings. No changes to the implementation measures of the code are proposed as a part of this land use action.

The Applicant’s proposed amendments to the NDC are consistent with the Comprehensive Plan.

GOAL 3: AGRICULTURAL LANDS

To preserve and maintain agricultural lands.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Newberg Urban Growth Boundary.

GOAL 4: FOREST LANDS

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding: Not applicable because the proposal does not propose any land use regulation changes to forest lands outside of the Newberg Urban Growth Boundary.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: The proposed amendments would not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code to protect these resources, areas, and open spaces. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

To maintain and improve the quality of the air, water and land resources of the state.

Finding: Not applicable because the proposal does not propose any land use regulation changes to air, water, and land resources quality.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

Finding: Not applicable because the proposal does not not modify the City's natural hazards requirements, such as flood plain areas.

GOAL 8: RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: Not applicable because the proposal does not impede on CPRD's ability to plan and implement recreation areas and this proposal does not propose any destination resorts.

GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: Newberg has an acknowledged comprehensive plan that complies with this goal. This proposal does not modify the City's goals and policies relating to economic development.

GOAL 10: HOUSING

To provide for the housing needs of citizens of the state.

Finding: Not applicable as the proposed amendment does not affect any land use regulations or policies related to housing supply or the availability of residential lands.

GOAL 11: PUBLIC FACILITIES AND SERVICES

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Not applicable because the proposed amendment does not affect public facilities or plans covering water, wastewater, transportation and stormwater.

GOAL 12: TRANSPORTATION

To provide and encourage a safe, convenient and economic transportation system.

Finding: Not applicable because the proposed amendment does not affect the acknowledged transportation plan or transportation system.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

Finding: Not applicable because the proposed amendment does not affect energy conservation or concerns about renewable energy.

GOAL 14: URBANIZATION

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: Not applicable because the proposed amendment does not affect the existing Urban Growth Boundary, buildable lands, employment, industry, open space, recreation areas, or the acknowledged

transportation plan and does not create a conflict in the transition from rural to urban lands.

GOAL 15: WILLAMETTE RIVER GREENWAY

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding: Not applicable because the proposed amendment does not impact the Willamette River Greenway and the protections already established by the Newberg Comprehensive Plan and development regulations.

B. Newberg Municipal Code

Chapter 15.100 LAND USE PROCESSES AND PROCEDURES

15.100.060 Type IV procedure – Legislative.

A. Type IV Actions Are Legislative. The planning commission shall hold a public hearing and make a recommendation to the city council. The city council shall hold another public hearing and make a final decision.

B. Legislative actions include, but are not limited to:

1. Amendments to the Newberg comprehensive plan text;
2. Amendments to the Newberg development code;
3. The creation of any land use regulation.

C. The public hearing before the planning commission shall be held in accordance with the requirements of this code. Notice of a hearing on a legislative decision need not include a mailing to property owners or posting of property (refer to NMC 15.100.200 et seq.).

D. Interested persons may present evidence and testimony relevant to the proposal. If criteria are involved, the planning commission shall make findings for each of the applicable criteria.

E. The city council shall conduct a new hearing pursuant to this code. At the public hearing, the staff shall present the report of the planning commission and may provide other pertinent information. Interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the planning commission.

F. To the extent that a finding of fact is required, the city council shall make a finding for each of the applicable criteria and in doing so may sustain or reverse a finding of the planning commission. In granting an approval, the city council may delete, add, or modify any of the provisions in the proposal or attach certain conditions beyond those warranted for the compliance with standards if the city council determines that the conditions are necessary to fulfill the approval criteria.

G. The city council's decision shall become final upon the effective date of the ordinance or resolution.

Finding: Public hearings with the Planning Commission and the City Council will be required to finalize a decision regarding the application for the amendments to the NMC. This requirement can be met.

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C. Newberg Comprehensive Plan

II. GOALS AND POLICIES

A. CITIZEN INVOLVEMENT

GOAL: To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

Finding: This application is subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with Goal 1 of the Oregon Statewide Planning Goals. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation. The proposal complies with the goal.

B. LAND USE PLANNING

GOAL: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

Finding: The proposed text amendment to allow original art murals on public buildings in residential zones adds to the cultural resources available in Newberg and is consistent with the land use planning processes of the City of Newberg. The proposal complies with this goal.

C. AGRICULTURAL LANDS

GOAL: To provide for the orderly and efficient transition from rural to urban land uses.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Newberg Urban Growth Boundary.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

POLICIES:

2. Development in drainageways shall be limited in order to prevent erosion and protect water quality. Trees provide needed protection from erosion and should be maintained.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Stream Corridor that protects wooded areas within the Newberg Urban Growth Boundary.

E. AIR, WATER, AND LAND RESOURCE QUALITY

GOAL: To maintain and, where feasible, enhance the air, water and land resource qualities within the community.

POLICIES:

1. Development shall not exceed the carrying capacity of the air, water or land resource base.

Finding: Not applicable because the proposal does not modify policies or regulations related to air, water, and land resources quality.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other natural hazards.

Finding: Not applicable because the proposal does not modify policies or regulations related to natural hazard areas such as floodplains or landslide areas.

G. OPEN SPACE, SCENIC, NATURAL, HISTORIC AND RECREATIONAL RESOURCES

GOALS:

1. To ensure that adequate land shall be retained in permanent open space use and that natural, scenic and historic resources are protected.
2. To provide adequate recreational resources and opportunities for the citizens of the community and visitors.
3. To protect, conserve, enhance and maintain the Willamette River Greenway.

Finding: Not applicable because the proposal does not modify policies or regulations related to open space, scenic, historic and recreational resources.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

POLICIES:

1. General Policies

- a. In order to increase the percentage of persons who live in Newberg and work in Newberg, the City shall encourage a diverse and stable economic base. Potential methods may include, but are not limited to, land use controls and capital improvement programs. (Ordinance 2006-2634, January 3, 2006)

Finding: Not applicable because the proposal does not modify policies or regulations related to developing a diverse and stable economic base.

I. HOUSING

GOAL: To provide for diversity in the type, density and location of housing within the City to ensure there is an adequate supply of affordable housing units to meet the needs of City residents of various income levels. (Ordinance 2006-2634)

POLICIES:

1. Density Policies

- a. Density rather than housing type shall be the most important development criteria and shall be used to classify different types of residential areas on the plan.
- b. Target densities shall be as follows:

<u>Classification</u>	<u>Units Per Gross Acre*</u>
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Urban Low Density	4.4
Urban Medium Density	9
Urban High Density	16.5

**Includes a 25 percent allowance for streets, walkways and other right-of-ways, utilities, small open spaces, preservation of resources, and similar features.*

2. Location Policies

a. Medium and high density areas should be located for immediate access to collector streets or minor arterials and should not cause traffic to move through low density areas. High density areas should be easily accessible to arterial streets. They should also be located near commercial services and public open spaces.

Finding: Not applicable because the proposal does not modify policies or regulations related housing supply, the availability of residential lands, or location policies.

J. URBAN DESIGN

GOAL 1: To maintain and improve the natural beauty and visual character of the City.

1. General Policies

I. The City should encourage innovative design and ensure that developments consider site characteristics and the impact on surrounding areas. (Ordinance 2016-2810, December 19, 2016)

Finding: The proposal will encourage innovative design by allowing original art murals on public buildings in residential zones. The addition of an original art mural to the existing Library Annex Building will beautify the site, without heavily impacting the surrounding area. The proposal complies with this goal.

K. TRANSPORTATION

GOAL 3: Promote reliance on multiple modes of transportation and reduce reliance on the automobile.

b. Modifications should be made to the City's land use plan and development ordinances that will decrease trip length and encourage non-auto oriented development.

1) The City should encourage neighborhood medium density and mixed use commercial development nodes.

Finding: Not applicable because the proposal does not modify policies or regulations related to transportation or the transportation system.

L. PUBLIC FACILITIES AND SERVICES

GOAL: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

POLICIES:

6. All Facilities & Services Policies

- b. The Civic Center shall be located to serve the entire planning area.

Finding: The Library Annex Building is located at 211 N Howard Street, which is zoned R-2 (Medium Density Residential). This location is also adjacent to the C-3 (Central Business District) and serves much of downtown Newberg and the surrounding area.

Overall the proposal complies with the goal and policies.

M. ENERGY

GOAL: To conserve energy through efficient land use patterns and energy- related policies and ordinances.

POLICIES:

1. Planning Policies

- a. The City will encourage energy-efficient development patterns. Such patterns shall include the mixture of compatible land uses and a compactness of urban development.

Finding: Not applicable because the proposal does not modify policies or regulations related to energy.

N. URBANIZATION

GOALS:

- 1. To provide for the orderly and efficient transition from rural to urban land uses.
- 2. To maintain Newberg's identity as a community which is separate from the Portland Metropolitan area.
- 3. To create a quality living environment through a balanced growth of urban and cultural activities.

Finding: The proposal is not requesting an Urban Growth Boundary expansion, has no effect on Newberg's separation from the Portland Metropolitan area and adds to the cultural activities available in Newberg. The proposal complies with the goal and policies.

Conclusion: The proposed municipal code amendment meets the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.